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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: ZEEV SCHMILOVITCH, et al.

Serial No.: 10/811,534

Group No. --

Filed: March 29, 2004

Examiner: --

For: SPECTROSCOPIC FLUID ANALYZER

Attorney Docket No.: U 014711-1

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

SUBSTITUTE DECLARATION

Kindly substitute the attached Declaration with original ink signature for the document previously filed on March 29, 2004.

Respectfully submitted,

Julian H. Cohen
c/o Ladas & Parry
26 West 61st Street
New York, New York 10023
Reg. No.: 20302 (212) 708-1887

CERTIFICATION UNDER 37 C.F.R. 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☒ **37 C.F.R. 1.8(a)**
with sufficient postage as first class mail.

TRANSMISSION

☐ transmitted by facsimile to the Patent and Trademark Office.

37 C.F.R. 1.10*

☐ as "Express Mail Post Office to Addressee"
Mailing Label No. _____ (mandatory)

Date: April 21, 2004

JULIAN H. COHEN
(Type or print name of person certifying)

***WARNING:** Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. 1.10(b).
"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.
(Information Disclosure Statement Short Form—page 1 of 1) 6-1a

Optional Customer No. Bar Code

00140

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PATENT TRADEMARK OFFICE

COMBINED DECLARATION AND POWER OF ATTORNEY

(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL,
CONTINUATION, OR C-I-P)

As a below named inventor, I hereby declare that:

TYPE OF DECLARATION

This declaration is of the following type:

(check one applicable item below)

☐ original.

☐ design.

NOTE: With the exception of a supplemental oath or declaration submitted in a reissue, a supplemental oath or declaration is not treated as an amendment under 37 CFR 1.312 (Amendments after allowance). M.P.E.P. Section 714.16, 7th Ed.

☐ supplemental.

NOTE: If the declaration is for an International Application being filed as a divisional, continuation or continuation-in-part application, do not check next item; check appropriate one of last three items.

☐ national stage of PCT.

NOTE: If one of the following 3 items apply, then complete and also attach ADDED PAGES FOR DIVISIONAL, CONTINUATION OR C-I-P.

NOTE: See 37 C.F.R. Section 1.63(d) (continued prosecution application) for use of a prior nonprovisional application declaration in the continuation or divisional application being filed on behalf of the same or fewer of the inventors named in the prior application.

☐ divisional.

☒ continuation.

NOTE: Where an application discloses and claims subject matter not disclosed in the prior application, or a continuation or divisional application names an inventor not named in the prior application, a continuation-in-part application must be filed under 37 C.F.R. Section 1.53(b) (application filing requirements-nonprovisional application).

☐ continuation-in-part (C-I-P).

INVENTORSHIP IDENTIFICATION

WARNING: *If the inventors are each not the inventors of all the claims, an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.*

My residence, post office address and citizenship are as stated below, next to my name. I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter that is claimed, and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

SPECTROSCOPIC FLUID ANALYZER

SPECIFICATION IDENTIFICATION

The specification of which:

(complete (a), (b), or (c))

(a) ☒ is attached hereto.

NOTE: *"The following combinations of information supplied in an oath or declaration filed on the application filing date with a specification are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 C.F.R. Section 1.63:*

"(1) name of inventor(s), and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration on filing;

"(2) name of inventor(s), and attorney docket number which was on the specification as filed; or

"(3) name of inventor(s), and title which was on the specification as filed."

Notice of July 13, 1995 (1177 O.G. 60).

(b) ☐ was filed on _____, ☐ as Application No. _____
☐ and was amended on _____ (if applicable).

NOTE: *Amendments filed after the original papers are deposited with the PTO that contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 C.F.R. Section 1.67.*

NOTE: *"The following combinations of information supplied in an oath or declaration filed after the filing date are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 C.F.R. Section 1.63:*

(A) *application number (consisting of the series code and the serial number, e.g., 08/123,456);*

(B) *serial number and filing date;*

(C) *attorney docket number which was on the specification as filed;*

(D) *title which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or*

(E) *title which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number, e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the PTO is the application which the inventor(s) executed by signing the oath or declaration.*

M.P.E.P. ' 601.01(a), 7th ed.

- (c) ☐ was described and claimed in PCT International Application No. _____ filed on _____ and as amended under PCT Article 19 on _____ (if any).

SUPPLEMENTAL DECLARATION (37 C.F.R. Section 1.67(b))

(complete the following where a supplemental declaration is being submitted)

☐ I hereby declare that the subject matter of the

☐ attached amendment

☐ amendment filed on _____

was part of my/our invention and was invented before the filing date of the original application, above identified, for such invention.

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37, Code of Federal Regulations, Section 1.56,

(also check the following items, if desired)

☒ and which is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, and

☐ in compliance with this duty, there is attached an information disclosure statement, in accordance with 37 C.F.R. Section 1.98.

PRIORITY CLAIM (35 U.S.C. Section 119(a)-(d))

NOTE: 37 C.F.R. ' 1.55 Claim for foreign priority.

"(a) An applicant in a nonprovisional application may claim the benefit of the filing date of one or more prior foreign applications under the conditions specified in 35 U.S.C. 119(a) through (d) and (f), 172, and 365(a) and (b).

(1)(i) In an original application filed under 35 U.S.C. 111(a), the claim for priority must be presented during the pendency of the application,, and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. This time period is not extendable. The claim must identify the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing. The time period in this paragraph does not apply to an application for a design patent.

(ii) In an application that entered the national stage from an international application after compliance with 35 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and the Regulations under the PCT."

(2) The claim for priority and the certified copy of the foreign application specified in 35 U.S.C. 119(b) or PCT Rule 17 must, in any event, be filed before the patent is granted. If the claim for priority or the certified copy of the foreign application is filed after the date the issue fee is paid, it must be accompanied by the processing fee set forth in ' 1.17(i), but the patent will not include the priority claim unless corrected by a certificate of correction under 35 U.S.C. 255 and ' 1.323.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

(complete (d) or (e))

- (d) ☐ no such applications have been filed.
 (e) ☐ such applications have been filed as follows.

NOTE: Where item (c) is entered above and the International Application which designated the U.S. itself claimed priority check item (e), enter the details below and make the priority claim.

**PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS
 (6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION
 AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. SECTION 119(a)-(d)**

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUMBER	DATE OF FILING DAY, MONTH, YEAR	PRIORITY CLAIMED UNDER 35 USC 119
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)
(35 U.S.C. Section 119(e))

NOTE: 35 U.S.C. 119(e)(1) requires that a nonprovisional application be filed within twelve months of the filing date of the provisional application for the nonprovisional application to claim the benefit of the filing date of the provisional application. Under 35 U.S.C. 21(b) and 119(e)(3), if this twelve-month period expires on a non-business day, it is extended to expire on the next business day.

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below:

PROVISIONAL APPLICATION NUMBER

FILING DATE

/ _____
/ _____
/ _____

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)
UNDER 35 U.S.C. SECTION 120

- ☒ [X] The claim for the benefit of any such applications are set forth in the attached ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART (C-I-P) APPLICATION.

ALL FOREIGN APPLICATION(S), IF ANY, FILED MORE THAN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

NOTE: If the application filed more than 12 months from the filing date of this application is a PCT filing forming the basis for this application entering the United States as (1) the national stage, or (2) a continuation, divisional, or continuation-in-part, then also complete ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION OR C-I-P APPLICATION for benefit of the prior U.S. or PCT application(s) under 35 U.S.C. Section 120.

POWER OF ATTORNEY

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

(list name and registration number)

JOSEPH H. HANDELMAN, 26179

JULIAN H. COHEN, 20302

JOHN RICHARDS, 31053

WILLIAM R. EVANS 25858

RICHARD J. STREIT, 25765

JANET I. CORD, 33778

PETER D. GALLOWAY, 27885

CLIFFORD J. MASS, 30086

RICHARD P. BERG, 28145

CYNTHIA R. MILLER, 34678

(Check the following item, if applicable)

☐ I hereby appoint the practitioner(s) associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

☐ Attached, as part of this declaration and power of attorney, is the authorization of the above-named practitioner(s) to accept and follow instructions from my representative(s).

NOTE: "Special care should be taken in continuation or divisional applications to ensure that any change of correspondence address in a prior application is reflected in the continuation or divisional application. For example, where a copy of the oath or declaration from the prior application is submitted for a continuation or divisional application filed under 37 CFR 1.53(b) and the copy of the oath or declaration from the prior application designates an old correspondence address, the Office may not recognize, in the continuation or divisional application, the change of correspondence address made during the prosecution of the prior application. Applicant is required to identify the change of correspondence address in the continuation or divisional application to ensure that communications from the Office are mailed to the current correspondence address. 37 CFR 1.63(d)(4)." Section 601.03, M.P.E.P., 7th Ed

SEND CORRESPONDENCE TO

Ladas & Parry
26 West 61st Street
New York, N.Y. 10023

DIRECT TELEPHONE CALLS TO:
(Name and telephone number)

(212) 708-1930

(complete the following if applicable)

Since this filing is a ☐ continuation ☐ divisional there is attached hereto a Change of Correspondence Address so that there will be no question as to where the PTO should direct all correspondence.

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

NOTE: Carefully indicate the family (or last) name, as it should appear on the filing receipt and all other document.

NOTE: Each inventor must be identified by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial, and by his/her residence, post office address and country of citizenship. 37 C.F.R. Section 1.63(a)(3).

NOTE: Inventors may execute separate declarations/oaths provided each declaration/oath sets forth all the inventors. Section 1.63(a)(3) requires that a declaration/oath, inter alia, identify each inventor and prohibits the execution of separate declarations/oaths which each sets forth only the name of the executing inventor. 62 Fed. Reg. 53,131, 53,142, October 10, 1997.

Full name of sole or first inventor

Zeev SCHMILOVITCH
(Given Name) (Middle Initial or Name) Family (Or Last Name)
Inventor's signature Zeev Schmilovitch
Date 12/11/03 Country of Citizenship Israel
Residence 3 Begin Street, 56478 Yehud, Israel
Post Office Address 3 Begin Street, 56478 Yehud, Israel

Full name of second joint inventor, if any

Gil KATZ
(Given Name) (Middle Initial or Name) Family (Or Last Name)
Inventor's signature _____
Date _____ Country of Citizenship Israel
Residence Kibbutz Afikim, 15148 Kibbutz Afikim, Israel
Post Office Address Kibbutz Afikim, 15148 Kibbutz Afikim, Israel

Full name of third joint inventor, if any

Ephraim MALTZ
(Given Name) (Middle Initial or Name) Family (Or Last Name)
Inventor's signature E. Maltz
Date 12.11.03 Country of Citizenship Israel
Residence 9 Stern Street, 55602 Kiryat Ono, Israel
Post Office Address 9 Stern Street, 55602 Kiryat Ono, Israel

(check proper box(es) for any of the following added page(s))

SIGNATURE(S)

NOTE: Carefully indicate the family (or last) name, as it should appear on the filing receipt and all other document.

NOTE: Each inventor must be identified by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial, and by his/her residence, post office address and country of citizenship. 37 C.F.R. Section 1.63(a)(3).

NOTE: Inventors may execute separate declarations/oaths provided each declaration/oath sets forth all the inventors. Section 1.63(a)(3) requires that a declaration/oath, inter alia, identify each inventor and prohibits the execution of separate declarations/oaths which each sets forth only the name of the executing inventor. 62 Fed. Reg. 53,131, 53,142, October 10, 1997.

Full name of sole or first inventor

Zeev SCHMILOVITCH
(Given Name) (Middle Initial or Name) Family (Or Last Name)

Inventor's signature _____

Date _____ Country of Citizenship Israel

Residence 3 Begin Street, 56478 Yehud, Israel

Post Office Address 3 Begin Street, 56478 Yehud, Israel

Full name of second joint inventor, if any

Gil KATZ
(Given Name) (Middle Initial or Name) Family (Or Last Name)

Inventor's signature _____

Date 10 Nov 2003 Country of Citizenship Israel

Residence Kibbutz Afikim, 15148 Kibbutz Afikim, Israel

Post Office Address Kibbutz Afikim, 15148 Kibbutz Afikim, Israel

Full name of third joint inventor, if any

Ephraim MALTZ
(Given Name) (Middle Initial or Name) Family (Or Last Name)

Inventor's signature _____

Date _____ Country of Citizenship Israel

Residence 9 Stern Street, 55602 Kiryat Ono, Israel

Post Office Address 9 Stern Street, 55602 Kiryat Ono, Israel

(check proper box(es) for any of the following added page(s))

that form a part of this declaration)

☒ **Signature** for fourth and subsequent joint inventors.

☒ Number of pages added 2

* * *

☐ **Signature** by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. *Number of pages added* _____

* * *

☐ **Signature** for inventor who refuses to sign or cannot be reached by person authorized under 37 C.F.R. Section 1.47. *Number of pages added* _____

* * *

☐ Added page for **signature** by one joint inventor on behalf of deceased inventor(s) where legal representative cannot be appointed in time. (37 C.F.R. Section 1.47)

* * *

☒ Added pages to combined declaration and power of attorney for divisional, continuation, or continuation-in-part (C-I-P) application.

☒ Number of pages added 3

* * *

☐ Authorization of practitioner(s) to accept and follow instructions from representative.

*(If no further pages form a part of this Declaration,
then end this Declaration with this page and check the following item)*

☐ This declaration ends with this page.

First added pages for fourth and subsequent joint inventors. *Number of pages added* [2]

Full name of fourth joint inventor

Martin I KUTSCHER
(Given Name) (Middle Initial or Name) Family (Or Last Name)

Inventor's signature X [Signature]

Date X 11.11.03 Country of Citizenship Israel

Residence House 80, 12320 Mishmar Ha'Yarden, Israel

Post Office Address House 80, 12320 Mishmar Ha'Yarden, Israel

Full name of fifth joint inventor, if any

Moran SARIG
(Given Name) (Middle Initial or Name) Family (Or Last Name)

Inventor's signature X MORAN SARIG

Date X 11/11/03 Country of Citizenship Israel

Residence Kibbutz Afikim, 15148 Kibbutz Afikim, Israel

Post Office Address Kibbutz Afikim, 15148 Kibbutz Afikim, Israel

Full name of sixth joint inventor, if any

Ilan HALACHMI
(Given Name) (Middle Initial or Name) Family (Or Last Name)

Inventor's signature X [Signature]

Date X 13/11/03 Country of Citizenship Israel

Residence Kfar Yehoshua, 30063 Kfar Yehoshua, Israel

Post Office Address Kfar Yehoshua, 30063 Kfar Yehoshua, Israel

Second added pages for fourth and subsequent joint inventors. *Number of pages added* [2]

Full name of seventh joint inventor, if any

Aharon HOFFMAN
(Given Name) (Middle Initial or Name) Family (Or Last Name)

Inventor's signature 

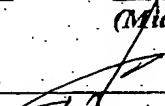
Date 12.11.03 Country of Citizenship Israel

Residence 9 Aharonson Street, 52293 Ramat Gan, Israel

Post Office Address 9 Aharonson Street, 52293 Ramat Gan, Israel

Full name of eighth joint inventor, if any

Haim EGOZI
(Given Name) (Middle Initial or Name) Family (Or Last Name)

Inventor's signature 

Date 12-11-03 Country of Citizenship Israel

Residence 53 Derech Magdiel, 45342 Hod Hasharon, Israel

Post Office Address 53 Derech Magdiel, 45342 Hod Hasharon, Israel

Full name of ninth joint inventor, if any

Eithan UNER
(Given Name) (Middle Initial or Name) Family (Or Last Name)

Inventor's signature 

Date X 11.11.03 Country of Citizenship Israel

Residence Kibbutz Afikim, 15148 Kibbutz Afikim, Israel

Post Office Address Kibbutz Afikim, 15148 Kibbutz Afikim, Israel



Practitioner's Docket No. U 014711-1

**ADDED PAGE TO COMBINED DECLARATION
AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION
OR C-I-P APPLICATION**

(complete this part only if this is a divisional, continuation or C-I-P application)

**CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)
UNDER 35 U.S.C. ' 120**

I hereby claim the benefit, under Title 35, United States Code, ' 120, of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, ' 112, I acknowledge the duty to disclose information

☒ that is material to patentability as defined in 37, Code of Federal Regulations, ' 1.56

(also check the following item, if desired)

☐ and that is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent,

that occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application. (37 CFR 1.63(e)).

(also check the following item, if desired)

☐ In compliance with this duty, there is attached an information disclosure statement, in accordance with 37 C.F.R. 1.98.

**PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS
DESIGNATING THE U.S. FOR BENEFIT UNDER 35 USC ' 120:**

U.S. APPLICATIONS

Status (*check one*)

U.S. APPLICATIONS	U.S. FILING DATE	Patented	Pending	Abandoned
1. U.S. 09/996,625	28 November 2001		X	
2.				
3.				
PCT APPLICATION DESIGNATING THE U.S.				
PCT APPLICATION NO.	PCT FILING DATE	U.S. APPLICATION NOS. ASSIGNED (<i>If any</i>)		
4.PCT/IL02/00892	7 November 2002			
5.				
6.				
7.				
8.				

**35 USC ' 119 PRIORITY CLAIM, IF ANY,
FOR ABOVE LISTED U.S./PCT APPLICATIONS**

ABOVE APPLICATION NO.	DETAILS OF APPLICATION FROM WHICH PRIORITY CLAIMED UNDER 35 USC ' 119		
<i>please indicate appropriate PCT application no.</i>	Country and Application No.	Date of filing (day, month, year)	Date of issue (day, month, year)
1.U.S. 09/996,625	IL 146404	8 November 2001	
2.			
3.			
4. PCT/IL02/00892	IL 146404	8 November 2001	
5.			
6.			
7.			
8.			